

1 ROBERT W. FREEMAN, ESQ.
Nevada Bar No. 003062
2 Email: Robert.Freeman@lewisbrisbois.com
DANIELLE C. MILLER, ESQ.
3 Nevada Bar No. 009127
Email: Danielle.Miller@lewisbrisbois.com
4 LEWIS BRISBOIS BISGAARD & SMITH LLP
6385 S. Rainbow Boulevard, Suite 600
5 Las Vegas, Nevada 89118
Telephone: 702.893.3383
6 Facsimile: 702.893.3789
Attorneys for Defendant
7 *State Farm Mutual Automobile*
Insurance Company

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10
11 ROBERTO GOMEZ, an individual and
DAISY GOMEZ, an individual,
12 Plaintiffs,
13 vs.
14 STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, a corporation;
15 DOES I through X; and ROE
CORPORATIONS I through X, inclusive,
16 Defendants.
17

CASE NO. 2:17-cv-01742-JAD-VCF

STIPULATION AND ORDER TO DISMISS
PLAINTIFFS' EXTRA-CONTRACTUAL
CLAIMS AND REMAND TO STATE
COURT

ECF Nos. 19, 22

18
19 Plaintiffs ROBERTO GOMEZ and DAISY GOMEZ ("Plaintiffs") and Defendant
20 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY
21 ("Defendant")(collectively referred to as to "the Parties"), by and through their respective
22 counsel of record, stipulate as follows:

23 1. Plaintiffs' Complaint was originally filed in the Eighth Judicial District Court
24 for Clark County, State of Nevada, on April 28, 2017.

25 2. Defendant removed this matter on June 26, 2017, on grounds of diversity of
26 citizenship pursuant to 28 U.S.C. §1441 (b).

27 3. The Complaint alleges claims for UM/UIM Contract, Contractual Breach of
28 the Implied Covenant of Good Faith and Fair Dealing, Tortious Breach of the Implied

1 Covenant of Good Faith and Fair Dealing, and Bad Faith.¹

2 4. Plaintiffs were involved in a motor vehicle collision on March 21, 2015.

3 5. Plaintiff Roberto Gomez has previously recovered \$30,000.00 from Farmers
4 Insurance, representing the tortfeasor's bodily injury liability limits. Plaintiff Roberto
5 Gomez has also previously recovered \$10,000.00 from Defendant State Farm
6 representing medical payments coverage.

7 6. Plaintiff Daisy Gomez has previously recovered \$10,000.00 from Farmers
8 Insurance, representing the tortfeasor's bodily injury liability limits. Plaintiff Daisy Gomez
9 has also previously recovered \$8,349.60 from Defendant State Farm representing
10 medical payments coverage.

11 7. Pursuant to this Stipulation, Plaintiff Roberto Gomez agrees that his total
12 claimed recoverable damages for underinsured motorist coverage against Defendant in
13 this action does not, and will not, exceed the sum of Fifteen Thousand and 00/100 Dollars
14 (\$15,000.00), representing Plaintiffs' total available UM/UIM Motorist Coverage.

15 8. Pursuant to this Stipulation, Plaintiff Daisy Gomez agrees that her total
16 claimed recoverable damages for underinsured motorist coverage against Defendant in
17 this action does not, and will not, exceed the sum of Fifteen Thousand and 00/100 Dollars
18 (\$15,000.00), representing Plaintiffs' total available UM/UIM Motorist Coverage.

19 9. Pursuant to this Stipulation, the parties agree that Plaintiffs' cause of action
20 against Defendant is contractual in nature and specifically with regard to the value of
21 Plaintiffs underinsured motorist claims.

22 10. Pursuant to this Stipulation, Plaintiffs and Defendant have agreed to submit
23 their dispute to arbitration in the Court Annexed Arbitration Program of the Eighth Judicial
24 District Court of the State of Nevada for final adjudication.

25 11. Pursuant to this Stipulation, Plaintiffs agree that their claims for Contractual
26

27 ¹ On August 16, 2017, Plaintiffs' cause of action for Bad Faith was summarily dismissed pursuant
28 to Defendant's Motion to Dismiss said cause of action.

1 Breach of the Implied Covenant of Good Faith and Fair Dealing and Tortious Breach of
2 the Implied Covenant of Good Faith and Fair Dealing, as well as Plaintiffs' prayer for
3 punitive damages, shall be dismissed, with prejudice.

4 12. By entering into this Stipulation, Defendant neither acknowledges nor
5 concedes liability or damages with respect to any claims brought by Plaintiffs in their
6 Complaint, or as such Complaint may hereafter be amended, and expressly denies
7 liability and damages.

8 DATED this 25th day of September, 2017.

DATED this 25th day of September, 2017.

9 ERIC ROY LAW FIRM

LEWIS BRISBOIS BISGAARD & SMITH LLP

10 By: /s/ Mahogany A. Turfley

By: /s/ Danielle C. Miller

11 ERIC ROY, ESQ.
12 Nevada Bar No. 011869
13 MAHOGANY A. TURFLEY, ESQ.
14 Nevada Bar No. 013974
703 South Eighth Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs

ROBERT W. FREEMAN, ESQ.
Nevada Bar No. 003062
DANIELLE C. MILLER, ESQ.
Nevada Bar No. 009127
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendant

15 ORDER

16 Based on the parties' **stipulation [22]**, which establishes that this court lacks subject-matter
17 jurisdiction over this case, IT IS HEREBY ORDERED that **this case is REMANDED back to the**
18 **Eighth Judicial District Court for Clark County, Nevada, Case No. A-17-754688-C, Dept. XX;**
the motion to dismiss [19] is **DENIED** as moot and without prejudice; and the 10/25/17 hearing is
19 **VACATED**. The Clerk of Court is instructed to **REMAND and CLOSE THIS CASE**.

20
21 LEWIS BRISBOIS BISGAARD & SMITH LLP


U.S. District Judge Jennifer Dorsey
September 25, 2017

22 /s/ Danielle C. Miller

23 By _____
24 ROBERT W. FREEMAN, ESQ.
25 Nevada Bar No. 003062
26 DANIELLE C. MILLER, ESQ.
27 Nevada Bar No. 009127
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorneys for Defendant
28 *State Farm Mutual Automobile Insurance Company*